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Alaska Bar No. 8306019

Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	Case No. 3:05-cv-267-JKS
	)	
Plaintiff,	)	<u>DECLARATION OF COUNSEL</u>
	)	<u>IN SUPPORT OF MOTION FOR</u>
v.	)	<u>DECREE OF FORFEITURE</u>
	)	
\$93,000.00 IN UNITED STATES	)	
CURRENCY, \$6,324.40 HELD IN	)	
WELLS FARGO BANK ACCOUNT	)	
NUMBER 1013062045, \$3,413.63	)	
HELD IN ENSTAR NATURAL GAS	)	
COMPANY ACCOUNT NUMBER	)	
5870158, AND \$507.52 HELD IN	)	
FIRST NATIONAL BANK ALASKA	)	
ACCOUNT NUMBER 70127683,	)	
	)	
Defendants.	)	
_____	)	

I, JAMES BARKELEY, am an Assistant United States Attorney and represent the plaintiff, the United States of America, in this action.

1. A Verified Complaint for Forfeiture was filed on November 14, 2005. The Complaint alleges that the defendant property, \$93,000.00 IN UNITED STATES CURRENCY, \$6,324.40 HELD IN WELLS FARGO BANK ACCOUNT NUMBER 1013062045, \$3,413.63 HELD IN ENSTAR NATURAL GAS COMPANY ACCOUNT NUMBER 5870158, AND \$507.52 HELD IN FIRST NATIONAL BANK ALASKA ACCOUNT NUMBER 70127683 (“Defendant Currency”), constitutes moneys or other things of value furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, and moneys used or intended to be used to facilitate violations of 21 U.S.C. §§ 841, et seq., and is therefore subject to civil forfeiture pursuant to 21 U.S.C. § 881(a)(6).

2. On November 16, 2005, Magistrate Judge John D. Roberts issued an In Rem Warrant of Arrest.

3. On November 15, 2005, William P. Bryson (now deceased), counsel for claimants Michael L. Hamilton and John R. Shook, was served with copies of the Verified Complaint for Forfeiture, the Request for Judicial Issuance of In Rem Warrant of Arrest, and proposed In Rem Warrant of Arrest via U.S. Mail.

4. On December 14, 2005, Mr. Bryson filed an Entry of Appearance and Notice of Claim on behalf of claimant Hamilton. Dockets 5 and 7.

5. On December 14, 2005, Mr. Bryson filed an Entry of Appearance and Notice of Claim on behalf of claimant Shook. Dockets 4 and 6.

6. The deadline for claimants' answers was January 3, 2006, or 20 days after their Notices of Claim of December 14, 2005.

7. No answer has been served or filed by claimants.

8. Claimants' counsel, Bryson, died on January 10, 2006.

9. In a conscious effort to be fair to claimants, this office then contacted the trustee counsel for Mr. Bryson, even though Mr. Bryson had missed the deadline to file claimants' answers prior to his death.

10. On January 31, 2006, trustee counsel for claimants, Charles A. Dunnagan, was served with notice of this forfeiture action via Certified U.S. Mail, Return Receipt Requested. Exhibit 1 (Hamilton); Exhibit 2 (Shook); Exhibit 3, Letter from Charles Dunnagan.

11. Notice of this forfeiture action was served on claimant Hamilton on April 28, 2006 via personal delivery at 450 E. Railroad in Wasilla, by DEA Special Agent Kenneth Solek (Exhibit 4), providing that all persons interested in the defendant property were required to file their verified statements with the Clerk of Court within 30 days of the earlier of receiving actual notice of execution of process or completed publication of notice, pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims. Also pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims, persons claiming an interest in said property shall serve and file their answers within 20 days after the filing of the statement of interest with the Clerk of Court, United States District Court, with a copy thereof sent to the undersigned.

12. Several attempts were made to personally serve claimant Shook with notice of this forfeiture action by the United States Marshals Service and this office, but all were unsuccessful. See Docket 19<sup>1</sup>; Docket 20<sup>2</sup>; Exhibit 5<sup>3</sup>.

13. On April 28, 2006, DEA Special Agent Kenneth Solek attempted to serve the notice of this forfeiture action via personal delivery on claimant Shook at 9345 Sun Valley Drive in Palmer, but claimant Shook refused to open the door and accept service. Exhibit 6.

14. Notice of this judicial forfeiture action was published in the Frontiersman on February 21, 28, and March 7, 2006. Dockets 17 and 18.

15. No claims or answers have been filed in this action.

16. On May 12, 2006, Entry of Default was entered by the Clerk as against claimants Hamilton and Shook, and all persons and entities claiming an interest in the Defendant Currency. Docket 28.

17. Declarant knows of no reason why a decree for the forfeiture of the Defendant

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<sup>1</sup>Notice was sent by the U.S. Marshals Service via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at 9345 Sun Valley Drive, Wasilla, AK 99654, but it was returned as undeliverable on February 19, 2006.


<sup>2</sup>Notice was sent by the U.S. Marshals Service via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at 9345 Sun Valley Drive, Wasilla, AK 99567, but it was returned as undeliverable on February 19, 2006.

<sup>3</sup>Notice was sent by this office via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at P.O. Box 520651, Big Lake, AK 99652-0651, but it was returned as unclaimed on April 18, 2006.

Currency should not now be entered.

I declare under penalty of perjury that the foregoing is true and correct.

DEBORAH M. SMITH  
Acting United States Attorney

 5/15/06  
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